

COMMISSIONERS APPROVAL

CHILCOTT *q*

LUND *BA*

THOMPSON *at*

TAYLOR (Clerk & Recorder)

Date.....March 10, 2005

Members Present.....Commissioner Betty Lund and
Commissioner Alan Thompson

Minutes: Glenda Wiles

The Board met with Road Supervisor David Ohnstad and Civil Counsel James McCubbin relative to Meridian Road. David stated the county has the ability to obtain the 'rodo millings' from the Highway 93 project and they would like to utilize them on Meridian Road. They have reviewed the existing condition and projected use of Meridian Road along with the availability of aggregate and hired the county's consulting engineer to identify the control points on this road. They found that only a section of Meridian Road is a county road, (approximately 1 ½ mile) from Sheafman to Blair Lane. The balance of the road has never been memorialized as a county road and therefore it is a public road. Currently the road is poorly designed for drainage and slope which impacts the road for public safety.

David stated the county needs to stop the maintenance on the portion of the road that is not a county road and move forward on adopting that portion of the road as a county road with 60' easement centered on the section lines. Until that is done, the county is precluded from doing any maintenance on that portion of the road. He stated the county can not spend county resources on a road that is not a county road.

Civil Counsel James McCubbin stated he had sent the Commissioners a memo on March 2nd about this issue. That memo summarizes the research that Gary Evans and James did. Neither Gary or James could not find any evidence that Meridian Road had ever been adopted as a county road, with the exception of that 1 ½ mile section. James stated legally the county could center the road on the section line or center it on the existing road. It is more complicated to align it on the center of the center line than on the existing road because of the easements. But, there is no legal reason why they can not center it on the center of the road. The portion that is a county road from Sheafman to Blair Lane is centered on the section line. The Commissioners can adopt what ever sections they want to adopt. He also advised the Commissioners, if they were not able to obtain a 60' easement, then they should not adopt it as a county road. And if the

residents do not want to give the easement, then it is a clear indication they do not want it adopted as county road.

James also stated if the Commissioners do not adopt the remaining portion of the road as a county road, then it is important not to do any maintenance on that portion of the road. He stated there was no law that states you can not maintain a public road, but it is ill-advised. He stated if there were an emergency on a road that was not a county road, then the Commissioners could direct a snow plow to perform maintenance for emergency services, but not on a regular basis.

Commissioner Thompson stated the school bus utilizes this entire road and the lack of maintenance would create a problem. He also stated it will be difficult to have the neighbors agree to this 100%. James stated the Commissioners could pursue imminent domain if only a couple of the land owners did not want to move forward on adopting this as a county road. David stated the people would probably not be donating anything more than what they have donated over the past years.

Commissioner Lund stated the detour of the highway construction will impact Meridian Road. David stated the state is not going to utilize this as a detour, but the traffic will find the path of least resistance and it is hard to guess the volume of the increased traffic.

James stated the prescriptive easement that exists might vary. It will center on the actual location of the road. He noted that after driving it, there is not much road on the prescriptive easements. David stated the road might have meandered over the time since the 1880's but it has never been brought to a reasonable design standard.

Commissioner Lund asked if they have driven on it for all of these years and the county has maintained it for the last few decades, would that have any impact on the road. James stated it does not make it a county road.

Commissioner Thompson stated there are essentially three sections of Meridian. The Westside, Sheafman and Bear Creek Trail sections. He agreed that the Highway 93 construction will push the traffic over to Meridian. He also noted that the area of the Westside re-construction starts next year. He suggested they remove the section of Bear Creek to Victor out of this discussion, because the re-construction of 93 in that area will not take place for another few years.

David stated they could prepare the road to receive those aggregates at the Woodside Cutoff section, and the next step would be from Sheafman Road to Woodside. (It was noted those traffic counts are 300 trips per day). Commissioner Thompson stated he agrees this section at Woodside would need to be addressed first.

James stated he has prepared a right of way easement that the residents can sign for this half mile section. And the adoption can be done by resolution.

Commissioner Thompson stated the level of service needs to continue, but not to accept the road as a county road without the proper 60' easement. James stated he recommends obtaining the dedicated easements by the residents' first, then to see what happens.

David recommended they expedite the right of way easements and in the meantime not continue the maintenance.

Commissioner Lund stated the Commissioners need to go out and obtain the right of way easements by knocking on the residents doors. She stated she is concerned about the traffic that will utilize Meridian Road during the highway construction. The Woodside to Victor construction will take place in 2008, and the silver bridge will be replaced this year.

Audience Member Roger DeHaan stated he has not found anyone that does not want anything done. Rather, they are interested in traffic calming. He stated they do not want a road that will increase the speed of the vehicles. He indicated the neighbors want to save the trees and keep the fences which will encourage people to go slow. He stated it is important to remember that long after the highway project is completed their road remains in their neighborhood. Roger asked if there was a traffic count between Sheafman and Bear Creek Trail. David stated he could not find the actual count, but thought it was 120-130 counts per day. Currently that section of road is a minor access road and it is relatively straight, 24' wide road. The road would need to be widened out to 26', so that would not be a drastic change. David also stated they need to establish the drainage and clear zone. He also indicated they need to prepare the road for the recycled asphalt which will also have a chip seal on top.

Roger stated he agrees with the drainage, but asked if they could still have their existing tree borders in order to calm the traffic. He felt there was not much point for the Road Department to take all of the 60' easement, because there are 17 houses from Sheafman to Bear Creek Trail. He stated some of the fences have been there a long time and will cost the residents quite a few dollars to move them. Commissioner Lund stated they have directed the road supervisors in the past to remove those encroachments in the right of way.

Phil Taylor stated he did extensive research on this road and also hired Gary Evans to complete the research. He relayed the records are impeccable on what has existed on Meridian Road since 1885. He did not appreciate the fact that the road has been there for 100 years, and now, because of the new road supervisor, they want to change the whole road. He stated the road department only grades the road when they have to because of its' bad condition. He asked why the county is even doing this. Commissioner Lund relayed when the highway construction begins, the people on Meridian will 'choke to death' on the dust that will be created by the traffic that will utilize Meridian Road. She also stated that although Meridian Road is not being delineated by the Department of Transportation as a detour road, but the people will use it.

David stated the road department will not sustain any maintenance on a road that is not a county road. And maintenance is a standard practice for the public health and safety. Phil stated these comments from the county 'all sound great' and the residents are not opposed to upgrading the road for public safety purposes, but it is important that a 'race track' not be created on Meridian Road. He stated that most of them were stunned when the 1954 resolution was found relative to what portion of Meridian Road is county and what is not a county road. He stated the residents want to preserve the trees and fences and it is important to remember they live on this road.

David stated the research has been an effort to identify the dedicated county roads and the easements. Through that course of road research, it has been found that Meridian Road is only a county road for 1 ½ miles with a 60' easement. Phil stated the people who are locating these roads are not identifying the easements. James stated they are not looking at the easements just the identification of the county road. The easements will be reviewed on a legal basis.

David gave a brief history of how the road department contacted the residents of Meridian Road. He stated the flyers were sent out a few months ago to let the property owners know of the pending work. Numerous property owners responded that the flyers were given to the residents in January and it only allowed them 7 days to 'remove their encroachments'. Commissioner Lund stated the Commissioners approved of this flyer and the time line. Another resident stated the road workers 'just put posts in our property before the flyer ever went to the residents'. Another resident stated the flyers were sent out with the notification of encroachment when the county did not even own the easement on a large section of the road. Resident Phil Taylor stated the work on the easement should have been done first.

Roger stated Meridian Road 'is a big job for the county' and they will find the people more cooperative if they address traffic calming. He stated that is the biggest fear people have about this project. The Commissioners need to assure the residents they will help them deal with that.

Commissioner Lund stated the Commissioners do not disagree with Roger's concerns but the county must have a 60' right of way. Therefore, the removal of the trees is important to maintain a clear zone. Commissioner Thompson stated he receives phone calls from various residents of Meridian Road who complain about the 'wash boards and dust'. He stated he thinks the placement of the rodo mills would be a good idea as it would take care of those complaints. He stated it was always the county's intention to try and assist the citizens who live on the road. He also indicated they need to follow the legal requirements of the proper right-of-way and clear zones.

An audience member stated he has lived there all of his life and there has never been a fatality on the road. He stated the county 'just wants to change the road'.

Civil Counsel James McCubbin stated Meridian Road will become a major road and the county needs to plan ahead. Roger stated it is also possible to over build the road and

actually draw more traffic. An unknown audience member advised the Commissioners that when the road is paved it will encourage the traffic, which is their front yard.

David stated this is a minor access agriculture road. The issues they will be dealing with are reclaiming the right of way for clear zone, drainage, and slopes for the standard course of maintenance. Mrs. Taylor stated all of that work is over kill next to a four-lane highway.

The Commissioners stated they will attempt to take a road tour on March 17th. Mrs. Taylor stated the county could have avoided this if they would have responded to their letters. Don Dobberstein stated he would like to see the road remain where it is. He stated the road employees have staked the front of his cattle chute and he had permission from the previous Commissioners to put the chute in that location. He also stated he has an irrigation ditch that runs along the road and he would be willing to move that back against the fence. He advised the Commissioners that just because they want a 60' right-of-way does not mean they need it. Another resident, Mary Ann Gingrich stated she walks the road every day, along with the many kids that ride their bikes and horses.

David advised the Commissioners that he wants to proceed with their planned work on the 1 ½ mile section that is a county road this coming Monday.

Another resident stated he lives on the 1 ½ mile section and he has a fence that follows the road. David stated some of those fences, along with this residents' fence is in the right of way and it is illegal for those encroachments to be there. David stated the road department already has their work schedule for Monday along with the needed materials. Therefore they want to move forward and complete a clear zone, making the road a uniform width, clearing and replanting the necessary vegetation. He felt they should move forward on that section while the Commissioners look at the other section of the road.

Roger stated the road has been located there for a hundred years and there is some precedence for the road location and width. David stated that particular section of the road was established 10 years ago and the easements were established at that time. He also stated it is the road department's responsibility to remove the encroachments. He stated they will work with property owners so the property owners can relocate the fences such as the Charleston's. David stated it would be pointless to wait any longer in order to work on the road in the section that is a county road.

Commissioner Lund stated asked David to work with the Charleston's and any other residents in that section of the road. She agreed the road department needs to move forward. James stated David has been working with these residents for quite some time, and David needs more clarification before he starts this project on Monday.

David stated this project will take several weeks and he would continue to work with the property owners. He stated they probably won't make everyone happy but they plan to move forward. James stated if the county moves or pays for the fence relocation, they

would be setting a dangerous precedent. Commissioner Thompson stated the county will not replace the fences that are encroaching in the right-of-ways, as that is the property owners' responsibility. Commissioner Lund advised Mrs. Charleston that she will find some volunteers to help them relocate their fences.

In other business the Board met with Planning Director Patrick O'Herren for a brief update. In regard to the larger subdivisions that are being submitted to their office; these will bear larger costs by the developer and therefore there will be a bigger push for the planning staff to meet the deadlines. He expressed some concern that these submittals are at the 'bottom of their list' when the list is very long and there are time constraints.

In regards to Positive Systems; he noted that Ken has been in touch with the state and Positive Systems. The state has the films and they are getting this downloaded into a hard drive that will be given to the county. Ken will probably travel to Helena and obtain this data when it is ready. Patrick stated the question becomes how useful this data will be to the Planning Office. He also relayed that Positive Systems has given them software in order to utilize the data. Ken stated he hopes to utilize the data and rectify the images because they are color. He does not know how long it will take to do the photographs because the size of the data is much larger than what they normally work with. James stated the color photos would be extremely helpful to law enforcement and the planning staff. Patrick stated if they are asked to produce these pictures for law enforcement, could they receive some of the drug seizure monies, since it would be utilized for those purposes. James stated that would be the Sheriff's decision.

Patrick stated they should receive everything that is due them. He will have Ken give an estimate of the time it will take to obtain the data. Commissioner Thompson stated the decision to produce these as color photos is up to the Planning Office. James agreed and stated they need to review the costs for what they obtain and what they are able to produce.

Ken stated the 2002 data produced aerial photos for \$13,000.00. That rectification of those images took some time, but in the long run they saved three times the labor because they did not have to go out in the field.

Patrick also addressed the road regulation revision that is scheduled for March 23rd. He stated the legal advertising did not get published when they advised the Ravalli Republic to publish it. Due to that he asked if they could utilize the 23rd as a working session, then hold the public hearing the following week. Commissioner Lund stated the March 23rd date is crucial to some upcoming litigation. In regard to a public hearing, James stated the statutes read not less than 15 days before, and not more than 30 days before the public hearing is held should the legal notice be posted. The public hearing will now be held Monday, March 28th at 0900.

In other business the Board addressed several administrative matters which included the following.

Commissioner Thompson made a motion to grant final approval on the Council on Aging Subdivision. Commissioner Lund seconded the motion and all voted "aye".

Commissioner Thompson made a motion to allow the closure of Meyer Lane on May 6, 2005, for through traffic during the day, due to a yearly Fourth Grade Farm Fair at the Meyer Farm. Commissioner Lund seconded the motion and all voted "aye".

Commissioner Thompson made a motion to approve of the claims for February in the amount of \$712,673.64 and payroll in the amount of \$743,869.47. Commissioner Lund seconded the motion and all voted "aye".

In other business, Commissioner Thompson attended a Human Resource meeting in Missoula for the remainder of the day.